

Datatreasury Corporation v. Wells Fargo & Company et al

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DATATREASURY CORPORATION §
PLAINTIFF §
vs. §
WELLS FARGO & COMPANY; WELLS §
FARGO BANK, NATIONAL §
ASSOCIATION; BANK OF AMERICA §
CORPORATION; BANK OF AMERICA, §
NATIONAL ASSOCIATION; U.S. §
BANCORP; U.S. BANK, NATIONAL §
ASSOCIATION; WACHOVIA §
CORPORATION; WACHOVIA BANK, §
NATIONAL ASSOCIATION; SUNTRUST §
BANKS, INC.; SUNTRUST BANK; BB&T §
CORPORATION; BRANCH BANKING §
AND TRUST COMPANY; §
BANCORPSOUTH, INC.; §
BANCORPSOUTH BANK; COMPASS §
BANCSHARES, INC.; COMPASS BANK; §
CULLEN/FROST BANKERS, INC.; THE §
FROST NATIONAL BANK; FIRST §
HORIZON NATIONAL CORPORATION; §
FIRST TENNESSEE BANK, NATIONAL §
ASSOCIATION; HSBC NORTH §
AMERICA HOLDINGS INC.; HSBC §
BANK USA, N.A.; HARRIS BANKCORP, §
INC.; HARRIS N.A.; NATIONAL CITY §
CORPORATION; NATIONAL CITY §
BANK; ZIONS BANCORPORATION; §
ZIONS FIRST NATIONAL BANK; §
BANK OF NEW YORK CO., INC.; §
THE BANK OF NEW YORK; §
UNIONBANCAL CORPORATION; §
UNION BANK OF CALIFORNIA, §
NATIONAL ASSOCIATION; BANK OF §
TOKYO-MITSUBISHI UFJ, LTD.; §
CITIZENS FINANCIAL GROUP, INC. §
CITY NATIONAL CORPORATION; §
CITY NATIONAL BANK; COMERICA §
INCORPORATED; COMERICA BANK §
& TRUST, NATIONAL ASSOCIATION; §
§ Civil Action No. 2:06cv72
§ JURY TRIAL DEMANDED

DEUTSCHE BANK TRUST COMPANY §	
AMERICAS; FIRST CITIZENS §	
BANCSHARES, INC.; FIRST CITIZENS §	
BANK & TRUST COMPANY; KEYCORP;§	
KEYBANK NATIONAL ASSOCIATION; §	
LASALLE BANK CORPORATION; §	
LASALLE BANK NA; M&T BANK §	
CORPORATION; M&T BANK; THE PNC §	
FINANCIAL SERVICES GROUP, INC.; §	
PNC BANK, NATIONAL ASSOCIATION §	
UBS AMERICAS, INC.; SMALL VALUE §	
PAYMENTS COMPANY, LLC; THE §	
CLEARING HOUSE PAYMENTS §	
COMPANY, LLC; MAGTEK, INC; FIRST §	
DATA CORPORATION; TELECHECK §	
SERVICES, INC., REMITCO, LLC and §	
ELECTRONIC DATA SYSTEMS CORP. §	
JURY TRIAL DEMANDED	
DEFENDANTS §	

**DATA TREASURY CORPORATION'S
RESPONSE TO MOTION TO SEVER AND STAY THE CLAIMS
RELATING TO THE BALLARD PATENTS
PENDING REEXAMINATION OF THE BALLARD PATENTS**

Comes now Plaintiff DataTreasury Corporation ("DataTreasury") and files its Response to Defendants Natoinal City Corporation, National City Bank, U.S. Bancorp, U.S. Bank, National Association's Motion to Stay and Sever the Claims Relating to the Ballard Patents Pending Reexamination of the Ballard Patents (Dkt. No. 271). DataTreasury respectfully requests that this Court deny Defendants' Motion in its entirety. In support thereof, DataTreasury incorporates, in its entirety, its Response to Defendants Harris Bankcorp, Inc., Harris N.A., KeyBank National Association, KeyCorp, PNC Bank, The PNC Financial Services Group, Inc., SunTrust Bank, SunTrust Banks, Inc., and Electronic Data Systems Corp. Motion to Sever and Stay the Claims

Relating to the Ballard Patents Pending Reexamination of the Ballard Patents and the arguments and authorities cited therein.

Respectfully submitted,

/s/ R. Benjamin King
EDWARD L. VON HOHN, Attorney in Charge
State Bar No. 09813240
NIX PATTERSON & ROACH, L.L.P.
205 Linda Drive
Daingerfield, Texas 75638
903.645.7333 (telephone)
903.645.4415 (facsimile)
edhohn@nixlawfirm.com

C. CARY PATTERSON
State Bar No. 15587000
BRADY PADDOCK
State Bar No. 00791394
ANTHONY BRUSTER
State Bar No. 24036280
R. BENJAMIN KING
State Bar No. 24048592
NIX PATTERSON & ROACH L.L.P.
2900 St. Michael Drive, Suite 500
Texarkana, Texas 75503
903.223.3999 (telephone)
903.223.8520 (facsimile)
akbruster@nixlawfirm.com
bpaddock@nixlawfirm.com
benking@nixlawfirm.com

JOE KENDALL
State Bar No. 11260700
KARL RUPP
State Bar No. 24035243
PROVOST * UMPHREY, L.L.P.
3232 McKinney Avenue, Ste. 700
Dallas, Texas 75204
214.744.3000 (telephone)
214.744.3015 (facsimile)
jkendall@provostumphrey.com

krupp@provostumphrey.com

ROD COOPER
State Bar No. 90001628
EDWARD CHIN
STATE BAR NO. 50511688
NIX PATTERSON & ROACH LLP
5215 N. O'Connor Blvd. Ste. 1900
Irving, Texas 75039
972.831.1188 (telephone)
972.692.5445 (facsimile)
rcooper@cooperiplaw.com
edchin@nixlawfirm.com

ERIC M. ALBRITTON
State Bar ;No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
903.757.8449 (telephone)
903.758.7397 (facsimile)
ema@emafirm.com

T. JOHN WARD, JR.
State Bar No. 00794818
LAW OFFICE OF T. JOHN WARD, JR.
P.O. Box 1231
Longview, Texas 75601
903.757.6400 (telephone)
903.757.2323 (facsimile)
jw@jwfirm.com

**ATTORNEYS FOR PLAINTIFF
DATATREASURY CORPORATION**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via the Court's electronic filing system on all counsel who have consented to electronic service on this the 11th day of October, 2006.

/s/ R. Benjamin King
Nix, Patterson & Roach LLP